

ARGUMENTS OPPOSING SB 212

- **SB 212 would result in the denial of lawful medical treatment as punishment for a traffic offense.**

In 2004, 62% of Montana's voting public passed I-148 to enable seriously ill people with a physician's recommendation to safely access medical marijuana treatment. These individuals suffer from a range of health problems including cancer, HIV/AIDS, multiple sclerosis, chronic pain, and other life threatening and debilitating illnesses. For example, medical marijuana treatment allows many patients to reduce their reliance on potentially dangerous prescription drugs, such as powerful opiate painkillers, or to reduce the effects of wasting syndrome. There is no question that impaired drivers are a serious public concern, but nowhere does the law permit individuals to be denied medical care as punishment as proposed in SB 212.

- **SB 212 provides no protection for the public beyond what is already provided for in existing law.**

While SB 212 would deny medical marijuana treatment to seriously ill patients, it provides no additional protection to the public. The current law in Title 61 [Motor Vehicles] Chapter 8 [Traffic Regulation] already permits law enforcement to request that drivers who are believed to be impaired by marijuana, prescription medication, alcohol or any other drug to submit to a drug test. [61-8-402, MCA] Any driver who refuses to be tested, where there is probable cause to believe she or he is impaired, may have their drivers license confiscated to protect the public. Already under existing law, that person may no longer drive – whether or not they are a medical marijuana patient or caregiver. Confiscating a registry card, as proposed by SB 212, would add nothing to the public safety. Denying medical treatment in this way would only threaten the lives and well-being of the seriously ill people who the voters intended to protect.

- **Existing law already provides adequate safeguards where individuals with registry cards fail to comply with [the MMMA]: criminal prosecution for marijuana possession.**

The medical marijuana law itself already establishes specific restrictions on patients that more than adequately protect the public. For example, in addition to already explicitly subjecting patients to existing laws barring impaired driving, the medical marijuana also

forbids (a) any person to operate, navigate, or be in the physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana; or (b) the smoking of marijuana: (i) in a school bus or other form of public transportation; (ii) on any school grounds; (iii) in any correctional facility; or (iv) at any public park, public beach, public recreation center, or youth center. [50-46-205, MCA] Where a patient or caregiver violates any one of these existing restrictions, they are not protected by the medical marijuana law. In other words, they may be criminally prosecuted for illegal marijuana possession, like any other person. That is a completely adequate deterrent to intentional acts of noncompliance; patient's lives do not also have to be put in jeopardy by also denying them the right to lawfully continue their treatment, as proposed in SB 212.

- **SB 212 conflicts with the confidentiality provisions of the Montana Medical Marijuana Act [50-46-103, MCA]**

SB 212 conflicts with the confidentiality rules enacted by the voters. These confidentiality rules bar release of any information about medical marijuana use, except to protect the patient from prosecution, and were intended to prevent discriminatory treatment, such as the special punishment proposed by SB 212.

- **Compelling a patient or caregiver to present their registry card in these situations would be potentially unconstitutional.**

It is unclear how SB 212 could be implemented without compelling patients and caregivers to present their medical marijuana card whenever stopped by the police for a traffic infraction. Arguably, this would violate the individual's right not to self-incriminate, since the person would be placing themselves in danger of federal prosecution. Patients and caregivers may, of course, voluntarily choose to show their card to any law enforcement officer pursuant to [50-46-103-(8) (b), MCA] in order to avoid arrest and prosecution on state marijuana charges.

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